

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE AMENDING CHAPTER 9 OF THE SALINAS MUNICIPAL CODE (BUILDING) TO EXEMPT ACCESSORY DWELLING UNITS FROM DEVELOPMENT IMPACT FEES FOR A PERIOD OF FIVE YEARS

WHEREAS, the City's Annual Report on our Regional Housing Needs Allocation (RHNA) documented the production of one hundred and sixty-seven housing units in 2018 and the need for development of another 1,702 residential units in Salinas by 2023 to reach our allocation; and

WHEREAS, the City is well short of its RHNA allocation and must consider new housing types such as Accessory Dwelling Units (ADUs) to facilitate less expensive and faster production of these needed housing units; and

WHEREAS, the Farmworker Housing Study and Action Plan published and adopted by the City of Salinas in June 2018 recommends that staff "facilitate the development of ADUs by considering the reduction of ADU impact and permit fees, disseminating public information, and establishing lender products for ADU new construction and rehabilitation"; and

WHEREAS, the Salinas metro area ranks in the top 10 least affordable in the United States, according to an analysis of 2016 census data by Harvard's Joint Center for Housing Studies and ADUs offer a lower cost alternative for providing critical housing; and

WHEREAS, since 2007, only a total of 24 ADUs have been permitted; and

WHEREAS, through the assistance of an AmeriCorps VISTA, the Community Development Department was able to identify multiple barriers to ADU production, discovering that many ADU applicants considered payment of development impact fees as the greatest impediment; and

WHEREAS, Salinas' current fee structure never factored ADUs in the calculation of fees and consequently, most impact fees are charged per unit regardless of size, resulting in the average impact fees (city and regional) of approximately \$13,000 for an ADU nearly equal to the fees of a large single-family home; and

WHEREAS, California Government Code §§ 66000-66008, also known as the Mitigation Fee Act, requires fees for a development project to be proportional to the actual impact; and

WHEREAS, many jurisdictions are either reducing or exempting development impact fees for ADUs to ensure compliance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact; and

WHEREAS, production of ADUs will help with housing affordability, conditions, and ultimately increase property tax revenue; and

WHEREAS, the exemption would be limited to five (5) years to minimize any potential fiscal impact and would allow the City to evaluate the impact of exemption in generating more housing units.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1. Chapter 9 of the Salinas Municipal Code is hereby amended as follows (Revisions are shown in underline/strikethrough text):

Article V. – Development Impact Fees.

Sec. 9-44. - Exemptions and credits.

- a) Any addition of enclosed building space to a single-family dwelling shall be exempt from the development impact fees if the proposed addition will not change the character of the building as a single-family dwelling.
- b) Whenever enclosed building space is demolished, any construction of enclosed building space which takes place on the same parcel within five years of that demolition shall be exempt from development impact fees to the extent of the number of square feet and the number of bedrooms removed from the parcel as a result of said demolition work.
- c) Buildings or occupied mobile home pads which are within the current city limits of Salinas on the effective date of the ordinance codified in this section, shall be exempt from the imposition of these development impact fees to the extent of their present dimensions.
- d) Accessory Dwelling Units as defined in Chapter 37 (Zoning) of the Salinas City Code shall be exempt from development impact fees for a period of five (5) years from the effective date of this revision.
- e) When calculating the amount of fees due pursuant to the provisions of this article, credit shall be given for any and all fees previously paid with respect to the parcel being developed for sanitary sewer, engineering and inspection, map checking, street tree, and park and playground purposes, and pursuant to Article IV of Chapter 19 of the Salinas City Code. The applicant shall have the burden of proving payment of the aforementioned fees.
- f) The ordinance codified in this section shall be considered the successor ordinance to Ordinance 1733 (NCS). The existence of a final subdivision agreement with a provision giving notice of Ordinance 1733 (NCS) shall not be construed to exempt any parcel or building permit issued thereon from payment of development fees established by this article.
- g) Vacant lots less than ten thousand square feet in area existing before June 1978, which are zoned for single-family dwellings shall be exempt from the payment of fees prescribed in Section 9-41.

- h) Each governmentally assisted low income housing unit may be exempt from a portion of each fee established in Section 9-41. Other sources of funds shall be used to supplement the amount of fee revenue exempted. A governmentally assisted low income housing unit is defined as a housing unit which is part of a project that is constructed, developed or operated with direct financial assistance (grant or loan) from a federal, state, or local government agency for the purpose of providing housing for households of low income, as defined by the Salinas Housing Element. The Salinas city council shall determine the applicability of this exemption to specific projects.
- i) In addition to the payment of fees as required, each developer shall construct such sanitary and storm sewers within the blue borders of their subdivision map and pay one-half of the cost of sewers in any public street abutting their proposed subdivision, as are needed to serve their proposed subdivision, up to and including eight-inch sanitary sewers and twenty-four-inch storm sewers.

The difference in cost between a city required sewer and the maximum sewer required of a developer outside the blue boundary of the subdivision will be reimbursed to the developer from the respective sewer fund. Fees collected during each calendar year and not programmed by the city for other projects will be disbursed to each developer in proportion to the total amount owed by the city until the amount due is fully paid. Any money advanced by the city to the sewer funds shall be reimbursed to the city before any disbursements are made to developer.

- j) When the City of Salinas permits or requires a developer to dedicate park sites in-lieu of the payment of fees, a developer shall be reimbursed by the City of Salinas from the park fund, an amount equal to the fair market value of the land dedicated. The fair market value of the land dedicated shall be determined by the director of development in consultation with the owner(s) of land proposed for dedication. If the developer objects to the fair market value determination, the developer may, without cost to the City of Salinas, obtain an appraisal of the property by qualified real estate appraiser approved by the City of Salinas. This appraisal may be accepted by the city council if found reasonable. Alternatively, the City of Salinas and the subdivider may agree as to the fair market value.

When the city permits or requires a developer to install half streets next to a park, the developer shall be reimbursed for said costs from the park fund, an amount equal to the developer's cost. Fees collected during each calendar year and not programmed by the city for other projects will be disbursed to each developer in proportion to the total amount owed by the city until the amount due is fully paid. Any money advanced by the city to the park fund shall be reimbursed to the city before any disbursements are made to developers.

Article V-B. – Traffic Fees.

Sec. 9-50.80.1. - Credits and exemptions.

- (a) For uses in existence on January 1, 2000 (the baseline traffic model year), or those uses that paid a traffic impact fee after that date, any new construction of enclosed building space which replaces a demolished building shall be exempt from traffic impact fees to the extent of the square footage and prior use of the demolished building, for twenty years or up to the time of adoption of the next general plan, whichever is earlier.
- (b) For uses in existence on January 1, 2000 (the baseline traffic model year), or those uses that paid a traffic impact fee after that date, credit for a prior use of an existing enclosed building is allowed such that traffic fees are paid only if there is an intensification of trips generated.
- (c) The property owner of building permit applicant shall have the burden of providing adequate documentation to support a claim of credits or exemptions under subsections (a) and (b) of this section. The determination of the city engineer shall be final. Violation of this article is a misdemeanor.
- (d) Accessory Dwelling Units as defined in Chapter 37 (Zoning) of the Salinas City Code shall be exempt from development impact fees for a period of five (5) years from the effective date of this revision.

Article V-D. – Public Facilities Impact Fees.

Sec. 9-50.95.35 - Exemptions.

Accessory Dwelling Units as defined in Chapter 37 (Zoning) of the Salinas City Code shall be exempt from development impact fees for a period of five (5) years from the effective date of this revision.

SECTION 2. CEQA CONSIDERATIONS. The proposed amendment is statutorily exempt from environmental review pursuant to Public Resources Code Section 21080.17 and provides that the California Environmental Quality Act (CEQA) does not apply to the adoption of an ordinance under Government Code Section 65852.2 regulating accessory dwelling units as enumerated in Section 15282(h). Further, the amendment to Development Impact Fees is “Not a Project” under CEQA Guidelines Section 15378(b)(4), which provides that a “project” within the meaning of CEQA does not include the creation of funding mechanisms and other fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment.

The publication notice included the CEQA determination that it is “Not a Project” under CEQA Guidelines Section 15378 but did not reference the statutory exemption from environmental review pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section

15282(h). The inclusion of this additional CEQA clearance does not impact the public hearing for the project that was noticed. During the hearing, the public has the opportunity to comment on CEQA including the cited statutory exemption.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty days from and after its adoption.

PASSED AND ADOPTED this ____ day of March 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk